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BMG MUSIC; MAVERICK RECORDING
COMPANY; UMG RECORDINGS, INC.;
CAPITOL RECORDS, INC.; SONY BMG MUSIC
ENTERTAINMENT; and ARISTA RECORDS
LLC

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BMG MUSIC, a New York general partnership;
MAVERICK RECORDING COMPANY, a
California joint venture; UMG RECORDINGS,
INC., a Delaware corporation; CAPITOL
RECORDS, INC., a Delaware corporation;
SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; and ARISTA
RECORDS LLC, a Delaware limited liability
company,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO.

07-04868

WHA

**EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY**

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant John Doe
 8 ("Defendant"), who is being sued for direct copyright infringement.

9 2. As alleged in the complaint, Defendant, without authorization, used an online media
 10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
 11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
 12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
 13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
 17 identify Defendant Doe # 2 or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

21 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
 22 foregoing requested discovery immediately.

23 Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

24 By: 

25 MATTHEW FRANKLIN JAKSA

26 Attorney for Plaintiffs

27 BMG MUSIC; MAVERICK RECORDING

COMPANY; UMG RECORDINGS, INC.;

CAPITOL RECORDS, INC.; SONY BMG MUSIC

28 ENTERTAINMENT; and ARISTA RECORDS

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